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U.S. DISTRICT COURT
N.D. OF ALABAMA

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF ALABAMA MIDDLE DIVISION

PASCUAL MIGUEL FRANCISCO,)
Plaintiff,)
v.) 4:08-CV-2207-KOB-PWC
SCOTT HASSELL, et al.)
Defendants.)

MEMORANDUM OF OPINION

The magistrate judge filed a report and recommendation on June 3, 2009, recommending that this action filed pursuant to 42 U.S.C. § 1983 be dismissed under 28 U.S.C. § 1915A(b) for failing to state a claim upon which relief may be granted. The plaintiff filed a response to the report and recommendation on June 6, 2009, wherein he requests that this action be dismissed without prejudice. In support of his request, the plaintiff claims that he does not read or write English well, and that due to his incarceration he has been unable to collect evidence necessary to successfully bring forth his Eighth Amendment claim.

Having carefully reviewed and considered *de novo* all the materials in the court file, including the report and recommendation and the plaintiff's request in response thereto, the court is of the opinion that the magistrate judge's report is due to be and is hereby ADOPTED and the recommendation is ACCEPTED. Accordingly, the complaint is due to be dismissed without prejudice pursuant to 28 U.S.C. § 1915A(b) for failure to state a claim upon which relief can be granted. A Final Judgment will be entered.

DATED this 27th day of July 2009.

KARON OWEN BOWDRE

UNITED STATES DISTRICT JUDGE